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**UNITED STATES DISTRICT COURT**  
 DISTRICT OF DELAWARE

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DEFICIENCY NOTICE

DATE: 12/12/06  
 TO: W. Michael Tupman, Esq.  
 RE: CA# 05-527-SUR CASE CAPTION: Yarnall v. Mendez, et al.

Please note that a document submitted for filing (or courtesy copy thereof) in the above noted case **does not conform** to one or more of the Administrative Procedures Governing Filing and Service by Electronic Means, or other local rules/practices: ☐ The Court will take no action on subject document until discrepancies are corrected.  
 or ☐ Corrective action has been taken by the Court, however future filings should address these concerns.

- ☐ D.I.# \_\_\_\_\_ Courtesy copy not received by end of next business day.
- ☐ D.I.# \_\_\_\_\_ Document or courtesy copy not properly bound (rubber bands/clips not acceptable).
- ☐ D.I.# \_\_\_\_\_ Notice of Filing Paper or Multi-media Materials filed; items not yet received.
- ☐ D.I.# \_\_\_\_\_ Redacted copy of sealed document not filed within 5 business days.
- ☐ D.I.# \_\_\_\_\_ Pro Hac Vice fee not paid for attorney(s) \_\_\_\_\_.
- ☐ D.I.# \_\_\_\_\_ Attorney account used to file document does not agree with the signature /s/ on document.
- ☐ D.I.# \_\_\_\_\_ Certificate of Service (when required) was not included as last page of the document.
- ☐ D.I.# \_\_\_\_\_ Certificate of Service (when required) does not show service on all NON-electronic parties.
- ☐ D.I.# \_\_\_\_\_ No electronic /s/ signature or actual signature of filer(s) found in all applicable blocks.
- ☐ D.I.# \_\_\_\_\_ Discovery document(s) erroneously filed. Document will be removed from the docket.
- ☐ D.I.# \_\_\_\_\_ L.R. 7.1.1 statement not included as required for non-dispositive motions.
- ☐ D.I.# \_\_\_\_\_ Request for extension of discovery or trial deadline lacks proof of notification to the client, or lacks the reasons for the request.
- ☐ D.I.# \_\_\_\_\_ Brief does not conform to local rules: \_\_\_\_\_.
- ☐ D.I.# \_\_\_\_\_ Document(s) on CD exceeds maximum file size of 4.0 megabytes. Please divide document into multiple pdf. segments under 4.0 MB each and resubmit to Clerk for filing.
- ☐ D.I.# \_\_\_\_\_ Sealed documents not properly presented for filing - \_\_\_\_\_.
- ☐ D.I.# \_\_\_\_\_ Document is not in a readable PDF format. Please correct and resubmit to Clerk's Office.
- ☒ D.I.# 65 Discovery materials produced to the plaintiff should be filed with the carb.  
Medical Records should be filed under seal (see L.R. 5.4 and cm/ECF guidelines

If there are any questions concerning this matter, contact the Clerk's Office, at 573-6170. Also, refer to ECF Tips and Administrative Procedures on our web site, at <http://www.ded.uscourts.gov>. regarding the filing of private documents).

cc: Assigned Judge

(DEFICIENCY NOTICE - Rev. 11/06)

F. Dalleo  
 Deputy Clerk

**RULE 5.4. Discovery Materials Not Filed Unless Ordered or Needed.**

- (a) **Service Without Filing.** Except in cases involving pro se parties, all requests for discovery under Fed. R. Civ. P. 31, 33 through 36, and 45, and answers and responses thereto, and all required disclosures under Fed. R. Civ. P. 26(a), shall be served upon other counsel or parties but shall not be filed with the Court. In lieu thereof, the party requesting discovery and the party serving responses thereto shall file with the Court a "Notice of Service" containing the following:
- (1) a certification that a particular form of discovery or response was served on other counsel or opposing parties, and
  - (2) the date and manner of service. Filing the notice of taking of oral depositions required by Fed. R. Civ. P. 30(b)(1), and filing of proof of service under Fed. R. Civ. P. 45(b)(3) in connection with subpoenas, will satisfy the requirement of filing a "Notice of Service." In cases involving pro se parties; all requests for discovery under Fed. R. Civ. P. 31, 33 through 36, and 45, and answers and responses thereto, shall be served upon other counsel or parties and filed with the Court.
- (b) **Retention of Originals.** The party responsible for service of the request for discovery and the party responsible for the response shall retain the originals and become the custodian of them. The party taking an oral deposition shall be custodian of the original; no copy shall be filed except pursuant to subparagraph (c). In cases involving out-of-state counsel, local counsel shall be the custodian.
- (c) **Filing Where Necessary.** If depositions, interrogatories, requests for documents, requests for admissions, answers or responses are to be used at trial or are necessary to a pretrial or post trial motion, the verbatim portions thereof considered pertinent by the parties shall be filed with the Court when relied upon.
- (d) **Appeals.** When discovery not previously filed with the Court is needed for appeal purposes, the Court, on its own motion, on motion by any party or by stipulation of counsel, shall order the necessary material delivered by the custodian to the Court.
- (e) **Orders to File the Original.** The Court on its own motion, on motion by any party or on application by a non-party, may order the custodian to file the original of any discovery document.
- (f) **Notice of Filing.** When discovery materials are to be filed with the Court other than during trial, the filing party shall file the material together with a notice (1) stating, in no more than one page, the reason for filing and (2) setting forth an itemized list of the material.

*Source: Former Delaware Local Rule 4.1.E. with revisions, including revisions to conform to the 1993 Amendments to Fed. R. Civ. P. 26(a).*